

DOCKET FILE COPY ORIGINAL

CARTER, LEDYARD & MILBURN

COUNSELLORS AT LAW

1350 I STREET, N. W.

SUITE 1010

WASHINGTON, D. C. 20005

2 WALL STREET
NEW YORK, N. Y. 10005
(212) 732-3200

(202) 898-1515

FAX: (202) 898-1521

114 WEST 47TH STREET
NEW YORK, N. Y. 10036
(212) 944-7711

July 28, 1997

BY HAND

Mr. William F. Caton, Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

RECEIVED

JUL 28 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY



Re: **Notice of Ex Parte Presentation**
Closed Captioning and Video Description of
Video Programming, MM Docket No. 95-176

Dear Mr. Caton:

This is to provide notice that the attached letter and accompanying exhibit were delivered to Chairman Reed E. Hundt and to the copyees listed below on July 25, 1997. An original and one copy of the letter and exhibit are being submitted for inclusion in the above-referenced docket.

If you have any questions regarding the above information or enclosure, please contact the undersigned.

Sincerely,


Robert L. Hoegle


RLH:tfb

Enclosures

cc: Chairman Reed E. Hundt
Commissioner James H. Quello (w/encl.)
Commissioner Rachelle B. Chong (w/encl.)
Commissioner Susan Ness (w/encl.)
Gretchen Rubin, Legal Advisor to Chairman Hundt (w/encl.)
Marsha McBride, Legal Advisor to Commissioner Quello (w/encl.)
Suzanne K. Toller, Legal Advisor to Commissioner Chong (w/encl.)
Anita Wallgren, Legal Advisor to Commissioner Ness (w/encl.)

No. of Copies rec'd
List ABCDE





O D Y S S E Y

DOCKET FILE COPY ORIGINAL

July 25, 1997

BY HAND

Chairman Reed E. Hundt
Federal Communications Commission
1919 M Street, N.W.
Room 814
Washington, D.C. 20554

DAVID MACAIONE
Vice President
Business Affairs

Re: Ex Parte Communication
Closed Captioning and Video Description of Video Programming
MM Docket No. 95-176

Dear Chairman Hundt:

We understand that the Commission presently is considering the rules for implementing the closed captioning requirements of Section 305 of the Telecommunications Act of 1996. We recognize that the Commission must implement this legislation in a manner consistent with the Congressional intent which ensures that the hearing impaired, a significant segment of the viewing population, will have full access to video programming. Consequently, the Commission's rules cannot be undermined with an unlimited number of exemptions.

Nonetheless, Congress recognized that limited exemptions may be appropriate and consistent with its closed captioning mandate. With this in mind, Odyssey respectfully requests that the Commission consider a particularly burdensome circumstance potentially caused by mandatory closed captioning. Presently, Odyssey carries either live or "same-day" 15-20 religious services each week. Because of church and faith group restrictions, such services may be played only on the day they occur. Further, Odyssey must carry the services without commercial interruption. In short, Odyssey provides such services essentially as a public service to a wide variety of faith group viewers.

Odyssey estimates that the annual cost of closed captioning such religious service programming alone would exceed \$400,000. The production cost for such a religious service is very modest, and the closed captioning cost is likely to exceed one-third of the total production cost. Such high incremental captioning costs, coupled with the inability to recoup any costs through advertising revenue, make captioning this kind of public-service type programming prohibitive.

Odyssey respectfully requests that the Commission adopt a limited exemption from mandatory closed captioning for such non-commercial public service programming. Such exemption is consistent with the Commission's tentative recognition in its Notice of Proposed Rule Making that the imposition of captioning requirements on programming which "typically

operates on a relatively small production budget" would be economically burdensome. Notice at ¶¶ 74 and 76. The absence of any replay value and advertising revenue and the need for real-time captioning exacerbate such burden. The proposed exemption could be narrowly limited to public-service programming (including religious and worship services) which is distributed without commercial interruption. By limiting the exemption to such programming without commercial interruption, the exemption would not be subject to abuse.

By way of background, Odyssey is a 24-hour-per-day cable programming service containing a mix of religious, moral/ethical, values-based and family-oriented programming seeking to build bridges of understanding among all people, to promote the values of love, justice, reconciliation and hope, and to introduce perspectives of faith and values into public and civil discourse while respecting the dignity of all peoples. Odyssey is interfaith and does not permit solicitation of funds, proselytizing or maligning any religious groups in its program service. The non-profit National Interfaith Cable Coalition ("NICC"), a consortium of 64 Protestant, Jewish, Roman Catholic and Eastern Orthodox faith groups and evangelical traditions, owns a controlling interest in and provides programming to Odyssey. Liberty Media Corporation is the other owner. The faith groups participating in NICC are identified in the enclosure.

We appreciate your thoughtful consideration of the above request. If you have any questions regarding Odyssey's request, please do not hesitate to have a member of your staff contact me.

Very truly yours,

David Macaione
UKS

David Macaione
Vice President of Business Affairs

DM/jsl
Enclosure

cc: Commissioner James H. Quello (w/encl.)
Commissioner Rachelle B. Chong (w/encl.)
Commissioner Susan Ness (w/encl.)
Gretchen Rubin, Legal Advisor to Chairman Hundt (w/encl.)
Marsha McBride, Legal Advisor to Commissioner Quello (w/encl.)
Suzanne K. Toller, Legal Advisor to Commissioner Chong (w/encl.)
Anita Wallgren, Legal Advisor to Commissioner Ness (w/encl.)
William F. Caton, Secretary (2 copies) (w/encl.)

The membership of the National Interfaith Cable Coalition includes the following
faith groups:

African Methodist Episcopal Church	Friends United Meeting (Quakers)	Reorganized Church of Jesus Christ of Latter Day Saints
American Baptist Churches	Greek Orthodox Archdiocese of North and South America	Roman Catholic Church
Christian Church (Disciples of Christ)	Jewish - New York Board of Rabbis	Salvation Army
Christian Holiness Association*	Lutheran Church-Missouri Synod	Seventh Day Adventist
Christian Reformed Church	Mennonite Church	Union of American Hebrew Congregations
Church of Jesus Christ of Latter-day Saints	Moravian Church	Unitarian Universalist Church
Church of the Brethren	National Council of the Churches of Christ in the U.S.A.**	United Church of Christ
Congressional Christian Churches	Presbyterian Church (U.S.A.)	United Methodist Church
The Episcopal Church	Reformed Church in America	
Evangelical Lutheran Church in America		

***Christian Holiness Association
represents:**

Brethren in Christ
Evangelical Church of North America
Church of the Nazarene
Evangelical Methodist Church
Churches of Christian Union
Wesleyan Church
Evangelical Christian Church
World Gospel Mission
OMS International

****National Council of Churches
represents:**

African Methodist Episcopal Zion
Church
Antiochian Orthodox Christian
Archdiocese of North America
Armenian Church of America
Christian Methodist Episcopal Church
Coptic Orthodox Church in North
America
Hungarian Reformed Church in
America
International Council of Community
Churches
Korean Presbyterian Church in
America
Moravian Church in America-
Southern Province

**National Baptist Convention of
America**

National Baptist Convention, USA,
Inc.
Orthodox Church in America
Polish National Catholic Church of
America
Progressive National Baptist
Convention, Inc.
Religious Society of Friends
Russian Orthodox Church in the
USA, Patriarchal Parishes
Serbian Eastern Orthodox Church in
the USA and Canada
The Swedenborgian Church
Syrian Orthodox Church of Antioch
Ukrainian Orthodox Church of
America

Associate Members

American Bible Society
Churches of Christ Crusade for Christ

Church Women United
Religious Public Relations Council

National Conference